IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

RICHARD G. TATUM, individually and on behalf of a class of all other)
persons similarly situated,) Civil Action No. 1:02 CV 00373
Plaintiff,) SUGGESTION OF
) SUBSEQUENTLY
v.) DECIDED AUTHORITY AND
) CONDITIONAL MOTION FOR
R.J. REYNOLDS TOBACCO) LEAVE TO REPLY OR FOR
COMPANY, et al.	ORAL ARGUMENT
Defendants.))
)

Plaintiff, pursuant to LR 7.3(i), and in support of his Memorandum on Issue of Validity of November 18, 1999 Amendment (Dkt. # 364), and his Memorandum re: Legal Effect of Invalid Plan Amendment (Dkt. # 365), hereby submits the following subsequently decided authority, a copy of which is attached as Exhibit A: *Overby v. Nat. Assoc. of Letter Carriers*, 2010 U.S. App. LEXIS 4036 (D.C. Cir. 2010).

In addition, if the Court has any questions following the recent briefing, plaintiff respectfully requests leave to file, within 5 business days of any request by the Court, a 3-page reply to Defendants' Memorandum in Opposition to Plaintiff's Motion to Amend Under Fed. Civ. P. 15(B)(2), or alternatively, that the Court, at its earliest convenience, hear oral argument on the issues presented in that briefing. In the event the Court so rules, plaintiff has submitted a proposed order.

Respectfully submitted, this the 3d day of March, 2010.

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CERTIFICATE OF SERVICE

I hereby certify that on March 3, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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